IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CR. NO. 4:16-CR-00036
	§	
BRADY LEE PEYTON	§	

MOTION TO MODIFY CONDITIONS OF RELEASE

TO THE HONORABLE ALFRED H. BENNETT, UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION:

COMES NOW, BRADY LEE PEYTON, Defendant, through his attorney of record and moves this Court to modify the conditions of release herein, and in support of this motion would show as follows:

I.

Defendant's conditions of release require him to remain under home detention and refrain from using a computer or accessing the Internet, per the Order Setting Conditions of Release (Document 12) filed on February 5, 2016. These conditions violate provisions of the United States Constitution and create unreasonable restraints on Defendant's right to liberty during the pendency of a criminal case in which he is presumed innocent until proven guilty.

II.

Defendant requests this Honorable Court to modify the conditions of release. Defendant is currently attempting to actively seek employment, as also required by his pretrial conditions, but his other restrictive conditions of release are making the search for employment difficult. Currently, Defendant can neither venture out and inquire about employment opportunities in the community nor use the Internet to search for employment. Defendant respectfully requests that his conditions of release be modified to allow him to travel freely within Harris County and use a computer equipped with a monitoring program and access to the Internet for the purpose of seeking employment.

The current conditions are unreasonable because Defendant is being punished prior to conviction. Pretrial conditions are meant to ensure Defendant's attendance at trial, and these hindrances upon Defendant's employment search are not in furtherance of this goal. Conditions for release need not *guarantee* safety or presence, but need only "reasonably assure" both. *See* 18 U.S.C. § 3142(e)(1). Allowing Defendant to better search for employment and attain gainful employment by traveling within Harris County and using a monitored computer with Internet access will reasonably and adequately assure his presence before this court, and any other court to which these proceedings may subsequently be transferred, to answer the charge against him.

WHEREFORE, PREMISES CONSIDERED, Defendant prays this Honorable Court to grant this motion and amend his conditions of release.

Respectfully submitted,

/s/ David R. Bires
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Attorney for Defendant,
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CERTIFICATE OF CONFERENCE

On March 22, 2016, counsel for Defendant conferred with the U.S. Pretrial Services Officer, Jeff Fowler, concerning his position on Defendant's Motion to Modify Conditions of Release. Mr. Fowler stated that he is opposed to this motion.

On March 23, 2016, counsel for Defendant conferred with AUSA Kimberly Ann Bulger Leo concerning her position on Defendant's Motion to Modify Conditions of Release. Ms. Leo stated that she is opposed to this motion.

/s/ David R. Bires
DAVID R. BIRES

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2016 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to AUSA Kimberly Ann Bulger Leo via the court's electronic system. In addition, a courtesy copy will be served via email (Jeff_Fowler@txsp.uscourts.gov) to U.S. Pretrial Services Officer Jeff Fowler.

/s/ David R. Bires
DAVID R. BIRES